

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Madeleine Clayton 05/01/2001
Departmental Forms Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6086
Washington, DC 20230

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for approval of a new information collection received on 04/24/2001.

TITLE: Northeast Region Red Crab Vessel Trip and IVR Reports

AGENCY FORM NUMBER(S): None

ACTION : APPROVED
OMB NO.: 0648-0437
EXPIRATION DATE: 09/30/2001

BURDEN	RESPONSES	BURDEN HOURS	BURDEN COSTS
Previous	0	0	0
New	360	26	0
Difference	360	26	0
Program Change		26	0
Adjustment		0	0

TERMS OF CLEARANCE: None

NOTE: The agency is required to display the OMB control number and inform respondents of its legal significance (see 5 CFR 1320.5(b)).

OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	10. Abstract
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)

Signature

William T. Fitzgerald

Date

4/6/01

Signature of NOAA Clearance Officer

Signature

Richard Robert

Date

4/6/01

**SUPPORTING STATEMENT
NORTHEAST REGION RED CRAB VESSEL TRIP AND IVR REPORTS**

INTRODUCTION

The National Marine Fisheries Service (NMFS) is proposing an emergency action for the deep-sea red crab (*Chaceon quinquegens*) fishery to prevent overfishing in this fishery. The proposed measures include extensive reporting requirements on vessel owners and operators. These requirements will later be merged with 0648-0212.

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

A comprehensive information system which identifies the participants and which monitors their activity levels and landings is necessary to enforce the management measures and prevent overfishing. An information system is also needed to measure the consequences of management controls. In general, information requirements for an effective monitoring and enforcement system include:

- Identification of the participating vessels and operators
- Location of the fishing activity
- Activity levels
- Catch and landings information

Under the emergency action for the deep-sea red crab fishery, the reporting requirements for vessel owners and operators will include:

- (a) Vessel trip reports (VTR)
- (b) Trip reports of landings through an Interactive Voice Response (IVR) System

(a) Vessel trip reports

- Vessel owners or operators will be required to follow the reporting requirements in 50 CFR 648.10 to fish for deep-sea red crab.
- A vessel must complete a vessel trip report (VTR) for each trip taken by the vessel.

Justification

- Vessel trip reports are needed to monitor fishing effort and discards.
- These data are crucial to assessing the future status of the deep-sea red crab resource and monitoring the effectiveness of management measures to control fishing mortality.

- VTRs include much additional data that is not required for IVR reporting.

(b) Trip catch reports through an IVR system

- Vessel owners or operators will be required to report total catches of deep-sea red crab on a trip basis.
- Reports must be submitted via a toll-free telephone call after each fishing trip.

Justification

- The deep-sea red crab fishery requires monitoring of Total Allowable Catches (TAC's). The reports established by this requirement are crucial to monitor the catch level so that closure notices can be implemented before the TAC is attained.
- NMFS recently updated weekly IVR reporting by dealers for fisheries requiring weekly quota reports and by Atlantic herring vessel owners or operators.

2. Explain how, by whom, how frequently, and for what purpose the information will be used.

The information will be used by several offices of NMFS and the U.S. Coast Guard.

The data collected through these programs will be incorporated into the NMFS databases. Aggregated summaries of the collected information will be used to evaluate the management program and future management proposals. The IVR reports are used to manage fishing levels by providing information needed to know when to close the fishery.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

This proposal uses improved technology to reduce reporting burdens. The requirement for vessels to call in catches on a trip basis to an IVR system is the second attempt to use this system to track catches from individual vessels. Atlantic herring vessel owners or operators are currently required to call in catches on a weekly basis to an IVR system. The system has been used by dealers to report weekly purchases and facilitate monitoring of quotas in some fisheries. A frequent report of catch is necessary to monitor attainment of the TAC in this fishery. High catch rates during some parts of the fishing year and the influx of new west coast catcher-processors make it important that the reports be received on a trip basis. Vessel owners or operators are the only ones who can verify catch locations. VTR to be submitted on a weekly basis. VTR's, however, include much additional data that is not required for weekly TAC reporting. The IVR system will reduce the paperwork burden on both the fisherman and the NMFS, as it makes it easier to collate the catch reports and monitor landings, relative to weekly VTR reporting.

One alternative that would ease the burden for responders would be to allow the submittal of data in an electronic format. Such a system would reduce the burden for the vessel operator only if he was already using such a system to track catch. The Northeast Region is currently investigating the future use of electronic logbooks.

The NMFS Northeast Regional Office is also investigating the use of optical character recognition software to ease the burden of the reporting system on the government. Such a system would "read" the data directly from a form and enter it into the database, reducing the need for manual data entry. It would not, however, reduce the burden on the public.

4. Describe efforts to identify duplication.

Some of the information provided in the weekly IVR reports by vessel owners or operators will be duplicated in the monthly VTR reports. Catches and catch locations will be reported based on management areas in the IVR system. The monthly VTRs report fishing activity in much more detail. These reports include information on fishing effort, fishing gear, locations of fishing activity, discards of other species, etc. that are necessary to manage the fishery. There is some duplication, in that catch amounts are included in both reports. This duplication is unavoidable. In order to monitor the area TACs in a timely fashion, catch information must be reported on a frequent basis. Use of the IVR system will collect this information without requiring vessel operators to submit a detailed, paper VTR on a weekly basis.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

Most of the respondents qualify as small businesses. Only the minimum data needed to monitor compliance with regulations are requested from all respondents.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

Experience shows that with the current monthly VTR reporting, the timeliness with which information becomes available to management is insufficient to monitor/change area TAC's. Studies indicate that the resource could be easily overfished; the stock biomass for the species is not very large and can't sustain much of a fishery, and that just one year of severe overfishing could damage the fishery economically for a decade. Until March 2000 the fishery consisted of four - five boats. This level of effort was sufficient to fish the maximum sustained yield for deep-sea red crab. NMFS is concerned about an influx of fishing vessels and catcher processors displaced from west coast and Gulf of Mexico crab fisheries. Two west coast catcher-processors have begun fishing for deep-sea red crab. NE industry claims that these two new vessels could take more than the entire maximum sustainable yield (MSY) in just two trips each. Because VTRs are not required to be submitted until 15 days of the end of the month, there could be as much as 45 days between the date of catch and the date the report is

submitted. Mailing and processing time delays collection of the information even longer. This delay, if not corrected, would make it very difficult to judge how much of the TAC has been caught. Therefore, trip reports through the IVR system are necessary in order to accurately monitor the catch to insure the TAC is not exceeded. The monthly VTR provides confirmation of the IVR reports and to provide additional information on catch locations, gear type, discards, etc. necessary to manage the fishery.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The data collection is not consistent with OMB guidelines because respondents must submit information more often than quarterly. In addition, respondents must submit reports in less than 30 days after the end of a fishing trip. The necessity for the frequency and timeliness of the reports is explained in paragraph (6).

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

The New England Fishery Management Council held many Council and Deep-sea Red Crab Oversight Committee meetings at which there was a public discussion of monitoring requirements. The emergency action will include a comment period once submitted. Experience with various programs, some of which have been operating since 1981, provides continual feedback to NMFS on issues and concerns of the applicants.

A Federal Register notice has been published to solicit public comment on this submission.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift will be made to respondents.

10. Describe any assurance or confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

All data will be kept confidential as required by NOAA Administrative Order 216-100, Confidentiality of Fisheries Statistics, and will not be released for public use except in aggregate statistical form (and without identifying the source of data, i.e. vessel name, owner, etc.)

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

There are no questions of a sensitive nature.

12. Provide an estimate in hours of the burden of the collection of information.

Table 1 summarizes the burden hours, number of respondents, and total burden of the reporting requirements for the deep-sea red crab emergency action. The burden hours are based on the number of participants expected in the deep-sea red crab fishery. Because this emergency action will manage deep-sea red crab as an open access fishery – anyone who wants a letter of authorization can request one – the number of expected participants are estimates based on assumptions that are described below. The analysis is complicated by the fact there is no current requirement for a deep-sea red crab vessel permit. The exact number of current participants is not known.

Vessel Trip Reports (VTR)

All vessels with deep-sea red crab permits are required to submit a vessel trip report (VTR). An estimate of the number of vessels that may enter the fishery is 10 vessels. Burden hour estimates include assume that respondents already collect basic catch and effort information as a normal part of their business process.

The burden hour estimates and costs for the VTR requirement are summarized in Table 1.

Vessel Interactive Voice (IVR) Response System Reports

In order to monitor landings in a timely fashion, vessels will be required to report their landings of deep-sea red crab on a trip basis. This will be done through an IVR that will collect the minimum amount of information necessary to track deep-sea red crab landings in order to make sure the TAC is not exceeded. The requirement to report landings through the IVR system will be required for all deep-sea red crab fishing vessels.

Between 1997- 2000, there were five vessels that reported landings of deep-sea red crab. Four vessels landed an average of less than 65,000 lb per trip and only one vessel had any trips that they caught more than 65,000 lb of deep-sea red crab. The number of vessels reporting landings may increase with the addition of mandatory reporting requirements and the expansion of the fishery. For the purpose of this analysis, the number of vessels reporting deep-sea red crab landings is assumed to double to 10 vessels. The 10 vessels will fish two trip per month and will be required to report on a trip basis (unless exempted by the Regional Administrator), for a total of 240 IVR reports per year. Each IVR report is estimated to take 4 minutes, including one minute to summarize the information and three minutes to call the information in to the telephone number.

The burden hour estimates and costs for the IVR system are summarized in Table 1.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection.

Vessel Trip Reports (VTR)

In addition to the cost in time to record information on a VTR, respondents will also be required to submit their logbook entries to NMFS by mail on a monthly basis. The 10 vessels will fish two trip per month and will be required to report on a trip basis (unless exempted by the Regional Administrator), for a total of 240 IVR reports per year.

If respondents are taking, on average, 2 trips per month, the cost of mailing 2 logbook sheets to NMFS will be about \$1.00 per month. A maximum of 10 new respondents are estimated to be subject to this requirement. The mailing costs will be \$12.00 annually for each respondent, resulting in a maximum additional cost burden of \$120.

Interactive Voice Response (IVR) Reports

Aside from the cost in time to summarize and call in an IVR report, there will be no additional cost burden for respondents. All respondents are assumed to have access to a telephone. The telephone call will be placed through a toll-free number so the respondent will not pay for the call.

14. Provide estimates of annualized cost to the Federal government.

The following information is summarized in Table 1.

Vessel trip report (VTR)

Costs associated with processing additional VTR (logbook) information could result from the potential submission of logbooks by up to 10 vessels that are not currently submitting these reports. However, these additional cost burdens are assumed to be insignificant when considering the current magnitude of the logbook program and the amount of time and personnel that are already required by the system. With 10 new respondents, there will be an additional 120 logbooks to process each year. By comparison, in 1997 the NMFS Northeast Region processed over 183,000 reports. The additional reporting required by the deep-sea red crab emergency action is an increase of less than 0.1 percent.

Interactive Voice Response (IVR) System

Implementing the IVR system in the deep-sea red crab fishery will increase government costs. Additional staff hours will not be required, as the IVR system is automated and requires minimal staff time. The one time cost of a production machine (personal computer) to be used for building and testing

the IVR system for use in the deep-sea red crab fishery would be approximately \$1,500, or \$750 if annualized over two years. Each report to the toll free number will cost \$0.11 per minute. Since there are an estimated 240 reports at 3 minutes each, the costs for the telephone service will be \$26. Total annual costs to the government are estimated to be \$776. These costs are summarized in Table 1.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

These are new requirements.

16. For collections whose results will be published, outline the plans for tabulation and publication.

Results from this collection may be used in scientific, management, technical or general informational publications such as Fisheries of the United States, which follows prescribed statistical tabulations and summary table formats. Data are available to the general public on request in summary form only. Data are available to NMFS employees in detailed form on a need-to-know basis only.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

N/A.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

No statistical methods are employed in the information collection procedures; the requirements are mandatory for participants in the deep-sea red crab fishery.

Table 1: Burden and Cost estimates for the Public and the Government

Requirement	Number of Entities	Items per Entity	Total Number of Items	Response Time	Total Burden	Cost to Public (1)	Cost to Government (2)
Vessel Trip Reports	10	12	120	0.083	10	\$150	N/A
Interactive Voice Response Reports:	10	24	240	.067	16.1	\$241.50	\$776
Total			360		26.1	\$391.50	\$776

(1) Assumed to be \$15 per hour

(2) Assumed to be \$25 per hour



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

Dear Permit Holder:

This supplement serves to assist you in completing Fishing Vessel Trip Reports. The following sections include information about reporting requirements and miscellaneous items which are instrumental to correct reporting:

VESSEL LOG REPORTING REQUIREMENTS:

The following Fishery Management Plans (FMP) contain regulations requiring the submission of Fishing Vessel Trip Reports (FVTR):

NE MULTISPECIES
SEA SCALLOP
SUMMER FLOUNDER
SQUID, MACKEREL and BUTTERFISH
SCUP
BLACK SEA BASS

GOLDEN TILEFISH

The owner/operator of a vessel holding any of the federal fishery permits listed above is required to submit Fishing Vessel Trip Reports. Regulations implementing these FMP's require the FVTR's to be completed for each trip regardless of species fished for or taken. Additionally, the reporting requirements are not restricted to those trips occurring in federal waters. In essence, a vessel holding any of these permits must report all of its activity, whether it is lobstering in state waters, tuna fishing, urchin diving, etc. If an observer is present for a trip you are not relieved of this responsibility.

All of the FMP's noted above require all trips be reported on FVTR's, *with one exception*. The regulations for the summer flounder and **scup** fisheries state that vessels holding *only* a Party/Charter permit for summer flounder or **scup** need only to submit an accurate daily fishing log report for each charter or party fishing trip that lands summer flounder or **scup**.

If a vessel makes more than one trip per day, each trip must be submitted on a separate report. A vessel must report all trips, even if no species are landed. The exceptions are if the vessel:

- 1) Only sets gear
- 2) Returned to port prior to engaging in any fishing activity (e.g., mechanical break down, bad weather)
- 3) Holds only the Party/Charter permits referred to above and did not land summer flounder or **scup**

If a vessel did not fish for an entire calendar month, it is necessary to submit a "DID NOT FISH" report. Only one such trip report is needed per month to fulfill a vessel's FVTR reporting requirements, regardless of permits held. To correctly file a "DID NOT FISH" report, complete the following steps on the FVTR:

- (A) Indicate the month and year in the "DID NOT FISH" section at the top of the form.
- (B) Fill in vessel name, USCG documentation or state registration number, and NMFS Northeast Region vessel permit number,
- (C) Sign and date where indicated at the bottom of the form.



MISCELLANEOUS CHANGES OR ADDITIONS:

In an effort to continually improve the vessel trip reporting-program new inshore chart areas have been included to record activity in coastal areas. The *inshore* charts do not contain new locations, but are subdivisions of the large areas already in use. For example *inshore* areas 141 and 142 in Long Island Sound are sections within area 6 11. It is not necessary to complete a separate FVTR for fishing activity in two or more *inshore* areas within a larger area during the same trip.

New gear codes, which have been added, are listed below and should be used when appropriate:

DIV = Diving gear
PUR = Purse seine
PTO = Pots, other
DRO = Dredge, other
OTB = Otter Trawl, Beam

SUBMISSION OF REPORTS:

Fishing Vessel Trip Reports must be received or postmarked by the 15th of the following month from which the trip landed (e.g., trips landing in June are due by July 15). The white original is submitted to NMFS, One **Blackburn** Drive, Gloucester, MA, 0 1930. Retain the yellow copies for your own records, and submit the blue or pink copies to your State fishery's agency, if they require it.

It is the responsibility of the permit holder to maintain a supply of Fishing Vessel Trip Reports. The logs can be obtained by: mailing in the pink renewal form contained in each logbook package to the Fishery Data Center at One **Blackburn** Drive, Gloucester, MA, 0 1930; contacting this NMFS office, either in person or by telephone (978) 28 1-9246; or by contacting your local NMFS Port Agent.

If you have any questions regarding FVTR's please call NMFS at (978) 28 1-9246 or (978) 28 1-9 150.

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Paperwork Reduction Act Statement: The National Marine Fisheries Service requires this information for the conservation and management of marine fishery resources in accordance with the Magnuson-Stevens Fishery Conservation and Management Act. The data reported will be used to develop, implement, and monitor fishery management strategies and for a variety of other uses. Submission is mandatory for those persons falling under the requirements of 50 CFR 648.7 (b). All data submitted will be handled as Confidential material in accordance with NOAA Administrative Orders. Public reporting burden for the survey is estimated to average 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to NMFS, One **Blackburn** Drive, Gloucester, MA 01930.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the **Paperwork** Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) REQUIRED PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify--

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to,

information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--

(A) participants in the fisheries and fishing communities affected by the plan or amendment; and

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

97-453, 99-659, 101-627, 102-251, 104-297

(b) DISCRETIONARY PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery and any affected fishing communities, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

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(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

(12) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

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